

Date: Jun 22 2023

KEVIN P. WEIMER, Clerk

By: s/Angela Smith
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA, :
 : CASE NO: 1:23-CR-00160-ELR-CMS
v. :
 :
EFRAIN GONZALEZ and :
ESTELLA GONZALEZ, :
 :
Defendant. :

**DEFENDANTS' JOINT SECOND SUPPLEMENT TO DEFENDANT'S
JOINT AMENDED MOTION FOR DEPOSITIONS**

On June 9, 2023, the Defendants filed a Joint Motion for Depositions under Rule 15 of the Federal Rules of Criminal Procedure, requesting that the Court allow the Defendants to depose current employees of their restaurant whose work visas are expiring soon, thus rendering them unavailable to testify at trial since they will be legally obligated to return to Mexico. Counsel files this second supplement to notify the Court that additional material witnesses have purchased their return flights to Mexico and will need to be deposed prior to their departure.

On June 16, 2023, Counsel for the Defendants filed an Amended Motion for Depositions, identifying six additional material witnesses whose visas are expiring. On June 21, 2023, the Government filed a Response in Opposition, arguing, among other things, that the motion was premature since its case agent had searched flight records and advised that the proposed deponents did not have imminent plans to

leave the U.S. Defendants filed a joint reply on June 21, 2023. The Court held a hearing on June 22, 2023, and indicated it would deny the motion as premature.

Recognizing the materiality of these proposed deponents, however, the Court also suggested that the Government should obtain temporary authorization for the proposed deponents to remain in the U.S. until the Defendants' trial. At the conclusion of the hearing, the Court instructed the parties to advise the court should they become aware if any of the proposed deponents purchase flights to return to Mexico or otherwise make official plans to return to Mexico before trial, indicating it would allow the Defendants to depose witnesses who had concrete plans to return to Mexico.¹

Counsel for the Defendants files this second supplement for two reasons: 1) Counsel has been informed that two additional proposed deponents have purchased their return flights to Mexico,² and the remaining proposed deponents have indicated they intend to book their flights by the end of next week absent temporary authorization to stay; and 2) in Defendants' Amended Motion for Depositions, Counsel erroneously conflated two material witnesses who have a similar name—proposed deponent #11, Alessandro Martinez Guzman, and a

¹ The Court directed the Government to instruct its agent to check flight records every three days for two weeks and directed the Defense to advise the Court if it became aware of any of the witnesses purchasing flight tickets.

² Counsel will provide the flight receipts to the Government and the Court.

separate material witness, Alejandro Martinez Guzman. The latter is a particularly important witness because he knew the alleged victims and worked alongside them at the time they were allegedly being mistreated, and we anticipate he can refute their allegations against the Defendants. The additional receipts reflect:

Proposed Deponent #4 Ancelmo Gabriel, booked his flight on 6/22/2023 and is scheduled to depart the U.S. on 7/3/2023.

Proposed Deponent #18 Alejandro Martinez Guzman, booked his flight on 6/23/2023 and is scheduled to depart the U.S. on 7/3/2023.

CONCLUSION

For these reasons, we respectfully request that the Court allow the Defendants to depose the proposed deponents identified above and any other previously identified proposed deponents who have made plans to leave the U.S. upon expiration of their visas.

This 23rd day of June, 2023.

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CERTIFICATE OF SERVICE

This is to certify that I have this day electronically filed the foregoing Motion with the Clerk of Court using the CM/ECF system which will automatically send email notifications of such filing to all counsel of record in this matter.

This 22nd day of June, 2023.

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